

REMARKS

The following claims are pending in the application: 1, 5 – 8, 10, 11, and 13 - 15.

The following claims have been amended: 1 and 14.

Amendment to Claim 1

Support for the amendment to claim 1 may be found in the specification of the present application, including, but not limited to, pages 3 and 9, as well as Figure 1. Applicants respectfully submit that no new matter has been added in amending the aforementioned claim.

The Rejection of Claims Under 35 U.S.C. §112

The Examiner rejects claims 1, 5-8, 10, 11 and 13 under 35 U.S.C. §112, second paragraph, based on confusion over the scope of the claimed subject matter. That is, the Examiner questions whether Applicant intended to claim that “a controlling means retrieves a customer account number.” The Examiner questions how a table (database) is able to perform the retrieving step, because the database comprises only data stored in a memory and has no active means to retrieve the account number. Applicant has amended claim 1 to more clearly describe the subject matter recited therein. As a result of these amendments, Applicant believes it is now clear that the switch retrieves the customer account number. Consequently, it is respectfully submitted that the Examiner’s 35 U.S.C. § 112 second paragraph rejection is now moot.

The Rejection of the Claims Under 35 U.S.C. §103(a)

Applicant first notes that the Examiner has not repeated the prior obviousness rejection based on Sartain et al. (US Pat. No. 5,914, 712) in view of Lewis et al. (US Pat. No. 4,852,154) and further in view of Ferraro (US Pat. No. 5,151,782) and therefore those rejections are now moot.

The Examiner rejects claims 1, 5 – 8, 10, 11 and 13 – 15 under 35 U.S.C. §103(a) as being unpatentable over Sartain et al. (US Pat. No. 5,914,712) in view of Lewis et al. (US Pat. No. 4,852,154) and further in view of Polcyn et al. (US Pat. No. 6,061,433). The Examiner concludes that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Sartain reference with the teachings of Lewis and Polcyn, so that each cable television event, such as a pay-per-view event, would have its own unique telephone number for ordering, and a customer account number would have been retrieved VRU and ANI data, because, such a modification would have simplified cable event ordering by eliminating a program ID selecting step, and would have clarified how a customer was billed when calling from his own home.

Applicants respectfully submit that the Examiner's outstanding rejection of claim 1 may be properly withdrawn as the combination of references cited by the Examiner (i.e., Sartain, Lewis and Polcyn) fails to teach each and every limitation of the invention recited therein.

At this time, Applicant would like to restate the arguments regarding the Sartain and Lewis references contained in Applicant's Amendment to First Office Action submitted to Examiner on October 31, 2007:

Although the Examiner takes the position that Sartain suggests pay-per-view, Applicants respectfully disagree. In Sartain, a continuous program which includes the digital video programs is *broadcast to a group of subscribers or displayed on televisions*. (Abstract; emphasis added) Each of the subscribers has the option of selecting one of the digital video programs for broadcast *to the group*. (Abstract; emphasis added) Put another way, Sartain discloses a system whereby a subscriber interested in seeing a particular music artist's video (e.g., Rolling Stones) calls a 1-800 or 1-900 number associated with a specific channel on the subscriber's cable service and *enters a code specific* to the desired artist's video. The desired video is then placed in a queue for broadcast *to everyone watching the specific channel* on that cable provider. Thus, Sartain cannot fairly be said to disclose a pay-per-view system as everyone tuned to the specific cable channel can view the content ordered by others. Sartain is more akin to a jukebox - a "pay-per-order" system because unlike "pay-per-view", non-purchasers of the content also receive the benefit of the content. Sartain itself differentiates between "pay-per-view" systems and systems (like the one disclosed in Sartain) that broadcast content to all subscribers or viewers on one common channel. (Sartain, col. 1, ll. 15 - 38)

Furthermore, Sartain fails to teach or suggest that the *customer account number is retrieved from the data storage component*. Rather, Sartain teaches that the caller's number is *compared* against a list of telephone numbers associated with subscribers who have previously not paid. (Col. 5, ll. 1 - 8) Contrary to the Examiner's assertion, Sartain does not disclose that the telephone number is used to retrieve the customer account number from the data storage component. Rather, the telephone number (or subscriber's number, which coincidentally is not described as the customer's account number) is merely compared against a list to determine if that telephone number is present or not. Moreover, Sartain fails to teach that *the automatic voice response unit requests additional customer information* after the called number table retrieves the customer account number. Additionally, Sartain fails to teach or suggest that the information placed in the log (which the Examiner analogizes to the temporary data container) is *used in subsequent call processing applications of the automatic voice response unit* (IVR, Figure 5, element 600).

Finally, Sartain fails to teach that a customer account number is obtained from the calling number and is *automatically associated* with ordering of the event. Rather, Sartain teaches and only teaches that either the subscriber's telephone number or a subscriber number (a term used separate and apart from "account number" in Sartain) is associated with ordering an event. (Col. 5, ll. 1 - 13). Sartain fails to state that the calling number, or subscriber number, is ever automatically associated with the ordering of the event. Also, Sartain fails to

teach or suggest that the customer account number and the called number are sent to the automatic voice response unit.

Lewis fails to cure the deficiencies of Sartain discussed above. First, Lewis similarly fails to teach or suggest the use of *an automatic voice response that receives the customer account number and called number*. Instead, Lewis teaches that a multifrequency (MF) outputter receives the called and calling numbers and outputs the called and calling numbers as multifrequency (MF) tones that are sent to a MF decoder which converts the MF tones into digital form. (Col. 5, ll. 55 – col. 6, ll. 14) The digital MF tones (now referred to as a character string or digital word) is communicated to the CATV cable company after conclusion of the call. Essentially, Lewis teaches a system that receives orders for pay-per-view events and forwards the order on to the CATV cable company.

Additionally, Lewis similarly does not teach, mention or suggest a *data storage component configured with customer information including an account number and event information*. (And there would be no need for the system of Lewis to have such components as Lewis explicitly teaches that each event is provided with a unique telephone number). As Lewis does not have a data storage component, Lewis cannot fairly be said to teach retrieving account number information from said data storage component.

Because Lewis fails to teach that the automatic voice response unit receives the customer account number and/or the called number from a temporary data container, Lewis cannot be said to teach the use of this information in subsequent call processing applications *of the automatic voice response unit*. Moreover, Lewis cannot fairly be said to *teach subsequent retrieval of additional customer information by the automatic voice response unit*. Lewis is silent as to any retrieval of the customer account number – especially using the calling number. Accordingly, Lewis could not automatically associate the customer account number with the ordering of an event.

Regarding the Polcyn reference, the Examiner cites Polcyn solely for its alleged teaching that an interactive voice response unit, using ANI is used to retrieve customer data including account number and account balance. However, Polcyn fails to cure the deficiencies of Sartain and Lewis as discussed above. Specifically, Polcyn fails to teach or suggest that the **called number is sent to the automatic voice response unit**. Polcyn teaches a system wherein all calls are routed to one location or customers only call one number. In Polcyn, there is no need for the system to identify a called number, because, for example, all calls are routed from the same toll free (800) number.

Inherently, in a system such as the one described in Polcyn, there is no need for the system to place or subsequently use the called number in application of the automatic voice response unit. Polcyn never teaches or suggests that the called number is sent to the automatic voice response unit. Accordingly, Polcyn cannot be said to teach or suggest that the called number information for a temporary data container is used in subsequent call processing applications of the automatic voice response unit.

Furthermore, there is suggestion or motivation to combine Lewis and Polcyn references because the system of Lewis is not analogous to the system of Polcyn. As mentioned above, the system of Lewis fails to teach or suggest the use of *an automatic voice response that receives the customer account number and called number*. Instead, Lewis teaches that a multifrequency (MF) outputser receives the called and calling numbers and outpulses the called and calling numbers as multifrequency (MF) tones that are sent to a MF decoder which converts the MF tones into digital form. (Col. 5, ll. 55 – col. 6, ll. 14) The digital MF tones (now referred to as a character string or digital word) is communicated to the CATV cable company after conclusion of the call. Essentially, Lewis teaches a system that receives orders for pay-per-view.

On the contrary, Polcyn teaches an interactive voice response (IVR) server that answers a network's incoming calls and decodes the caller's spoken word or DTMF response in order to determine the IVR applications the caller wishes to use. The IVR server accesses an application depending upon the caller's input selection. (Col. 3, ll. 41 – ll. 52) One skilled in the art would not be motivated to combine the two divergent systems contained in Lewis and Polcyn because, as stated above, the system of Polcyn is used in a situation where there is never a need to identify the called number – the

called number is always the same. The Polcyn reference does not contain one single statement expressing the need for using more than one called number in the Polcyn system. Accordingly, there is no reason for someone to combine the elements of the Lewis and Polcyn references, as the divergent systems perform different functions.

Similar to the Lewis reference, as discussed above, the Sartain reference fails to teach or suggest that the called number are actually sent to the automatic voice response unit. Correspondingly, once again there is no motivation for someone skilled in the art to combine the elements of the Sartain and Polcyn references.

Accordingly, as the combination of references fails to teach or suggest each and every element of the claimed invention as recited in claim 1, Applicants respectfully submit that the Examiner's outstanding rejection of claim 1 may be properly withdrawn.

With regard to claim 5, the Examiner takes the position that Sartain teaches multiple calling numbers for multiple programs which inherently has a number of table for processing incoming calls based on the called number.

Applicants respectfully submit that the Examiner's rejection of claim 5 may be properly withdrawn because claim 5 is dependent from claim 1 which has been differentiated above.

With regard to claim 6, the Examiner takes the position that Sartain teaches that the calling number and the called number are stored in the log (col. 4, ll. 22 – 28).

Applicants respectfully submit that the Examiner's rejection of claim 6 may be properly withdrawn because claim 6 is dependent from claim 1 which has been differentiated above.

With regard to claim 7, the Examiner takes the position that it is inherent that

various data are transmitted between the switch and the voice response unit, such as prompts and billing information.

Applicants respectfully submit that the Examiner's rejection of claim 7 may be properly withdrawn because claim 7 is dependent from claim 1 which has been differentiated above.

With regard to claim 8, the Examiner, as best as can be understood, takes notice that it is well known in the art that there is a live operator connected to an automated system in order to solve problems encountered by the automated system.

Applicants respectfully submit that the Examiner's rejection of claim 8 may be properly withdrawn because claim 8 is dependent from claim 1 which has been differentiated above.

With regard to claim 10, the Examiner takes the position that Sartain teaches that the customer's data includes credit card data (col. 5, ll. 1 – 22).

Applicants respectfully submit that the Examiner's rejection of claim 10 may be properly withdrawn because claim 10 is dependent from claim 1 which has been differentiated above.

With regard to claim 13, the Examiner takes the position that the modified Sartain reference teaches multiple telephone numbers, each for a television event, and that Sartain teaches that each PPV program has its own prompt for processing orders (col. 3, ll. 29 – 34).

Applicants respectfully submit that the Examiner's rejection of claim 13 may be properly withdrawn because claim 13 is dependent from claim 1 which has been differentiated above.

With regard to claim 14, the Examiner takes the position that Sartain discloses a method for television programs (events) ordering, comprising the steps of:

receiving a call at a switch (a telephone system inherently comprising a switch) (col. 2, ll. 49 – 56);

obtaining the caller's number (col. 5, ll. 1 – 6) and the called number (col. 2, ll. 49 – 56);

retrieving customer data from a database based on the calling number (col. 5, ll. 1 – 6);

storing the retrieved customer data in a log (temporary storage) (col. 4, ll. 22 – 28); and

running an automatic voice response application for cable television program ordering (col. 3, ll. 29 – 34; col. 9, ll. 42 – 46; col. 10, ll. 8 – 15).

According to the Examiner, Sartain teaches providing different telephone numbers for different selection types such as regular selection and promotional activities (col. 3, ll. 17 – 20), but fails to teach that each television event has its own unique telephone number. The Examiner additionally argues that Sartain also teaches that when ordering from a telephone outside a subscriber's home, some type of account number must be provided for payment (col. 3, ll. 51 – 54), and a caller's telephone number must be provided for payment (col. 3, ll. 51 – 54), and a caller's telephone number is used to check payment information (col. 5, ll. 1 – 8), but fails to teach using a calling number to obtain a caller's account. Additionally, the Examiner recognizes that Sartain fails to teach using a VRU, with ANI information, to retrieve customer information including a caller's account number and additional information.

Additionally, In the Examiner's opinion, a prior art reference by Lewis discloses a pay-per-view cable television (CATV) system in Figure 1, comprising a switch 18 for receiving a calling telephone and a called telephone number (col. 3, ll. 40 -53; col. 4, ll. 24 – 35; col. 5, ll. 44 -58), a computer 30 for storing customer and television events information (col. 6, ll. 33 – 35; col. 3, ll. 40 – 53), a voice response unit (VRU) 36 for interacting with customers (Col. 6, ll. 48 – 59). The Examiner further argues that Lewis teaches that each called telephone number uniquely identifies a selected television event (Abstract; col. 3, ll. 40 – 45). Furthermore, the Examiner takes the position that Polcyn teaches that an interactive voice response unit, using ANI data to retrieve customer data including account number and account balance (col. 4, ll. 24-33; col. 5 ll. 46-67; col. 6, ll. 20-31).

Thus, concludes the Examiner, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Sartain reference with the teachings of Lewis and Polcyn, so that each cable television's event, such as a pay-per-view event, would have its own unique telephone number for ordering, and a customer account number and balance would have been retrieved by the VRU with ANI data, because such a modification would have simplified cable event ordering by eliminating a program ID selecting step, and would have clarified how customer account information, such as account balance or payment history, was checked when the customer called from a known number.

The Applicants respectfully submit that the Examiner's rejection of claim 14 may be properly withdrawn for the same reasons as annunciated in the response to Claim 1 above. Namely, that none of the cited references teach or suggest that the called

number is actually sent to the automatic voice response unit. Furthermore, there is no motivation for one skilled in the art to combine the references to cover all elements of Applicant's invention.

Claim 15 is rejected under 35 U.S.C. §103(a) as being unpatentable over Sartain et al. (US Pat. No. 5,914,712) in view of Lewis et al (US Pat. No. 4,852,154) and further in view of Polcyn et al. (US Pat. No. 6,061,433), and further in view of Stoel et al. (US Pat. No. 5,905,942). The Examiner argues that the modified Sartain reference teaches using a customer number (PIN) to identify a customer (col. 5, ll. 8 – 11), but fails to teach that the PIN includes a rating. The Examiner further argues that Stoel teaches a method for video distribution and teaches that a subscriber is required to enter a PIN for PIN based rating of movies or PPV events (col. 5, ll. 41 – 58). Thus, concludes the Examiner, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the Sartain reference with the teaching of Stoel, so that the PIN would have included rating information, because such modification would have prevented minors from ordering adult programs.

Applicants respectfully submit that the Examiner's rejection of claim 15 may be properly withdrawn because claim 15 is dependent from claim 14 which has been differentiated above and that Stoel fails to cure the deficiencies of the combination of Sartain, Lewis and Polcyn.

CONCLUSION

In view of the foregoing amendment and accompanying remarks, the Applicants respectfully submit that the present application is properly in condition for allowance and may be passed to issuance upon payment of the appropriate fees.

Telephone inquiry to the undersigned in order to clarify or otherwise expedite prosecution of the subject application is respectfully encouraged.

Respectfully submitted,

Date: July 10, 2008

By: /Michael Stonebrook/
Michael Stonebrook
Registration No. 53,851
Standley Law Group LLP
495 Metro Place South
Suite 210
Dublin, OH 43017-5319
Telephone: (614) 792-5555
Facsimile: (614) 792-5536